

In the Matter of:)
)
Application for Certification) Docket No.
for Small Power Plant Exemption) 04-SPPE-01
Riverside Energy Resource Center)
)

SACRAMENTO, CALIFORNIA

10:05 A.M.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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Jackalyne Pfannenstiel, Presiding Member

John L. Geesman, Associate Member

HEARING OFFICER and ADVISERS PRESENT

Gary D. Fay, Hearing Officer

Tim Tutt, Adviser

STAFF and CONSULTANTS PRESENT

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Steve Baker

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Allan J. Thompson, Attorney

Robert B. Gill, Principal Electrical Engineer
Raychele B. Sterling, Deputy City Attorney
City of Riverside

Dave Tateosian, Project Manager
Kevin Lincoln
Power Engineers, Inc.

ALSO PRESENT

Marc D. Joseph, Attorney
Adams, Broadwell, Joseph & Cardozo
California Unions for Reliable Energy

I N D E X	Page
Proceedings	1
Opening Remarks	1
Introductions	1
Background and Overview	3
Hearing Officer Fay	3
Topics	8
Agriculture and Soils Resources	8
Applicant witness K. Lincoln	9
Direct Examination by Mr. Thompson	9
Exhibits	9
CEC Staff witness T. Mediati	15
Testimony by declaration	15
Cultural Resources	17
Applicant witness P. Maxon	17
Testimony by declaration	17
Exhibits	17
CEC Staff witness D. Torres	18
Testimony by declaration	18
Geology, Mineral Resources, Paleontology	18
Applicant witness D. Snyder	18
Testimony by declaration	18
Exhibits	19
CEC Staff witness D. Hunter	20
Testimony by declaration	20
Land Use	22
Applicant witness K. Lincoln	22
Testimony with listing of exhibits	9/22
Exhibits	22
CEC Staff witness A. Stennick	23
Testimony by declaration	23

I N D E X

	Page
Items - continued	
Public Health	24
Applicant witness K. Lany	24
Testimony moved to future date	24
CEC Staff witness O. Odoemelam	25
Testimony by declaration	25
Traffic and Transportation	26
Applicant witness K. Lincoln	26
Testimony with listing of exhibits	26
Exhibits	26
CEC Staff witness D. Flores	26
Testimony by declaration	26
Transmission Line Safety and Nuisance	28
Applicant witness C. Bell	28
Testimony by declaration	28
Exhibits	28
CEC Staff witness O. Odoemelam	29
Testimony by declaration	29
Transmission System Engineering	29
Applicant witness L. Hill	30
Testimony by declaration	30
Exhibits	30
CEC Staff witnesses S. Arachchige, D. Bucaneg, A. McCuen	30
Testimony by declaration	30
Visual Resources	31
Applicant witness T. Dildine	31
Testimony by declaration	31
Exhibits	31
CEC Staff witness M. Hamblin	32
Testimony by declaration	32

I N D E X

	Page
Items - continued	
Waste Management	33
Applicant witness N. Linscott	33
Testimony by declaration	33
Exhibits	33
CEC Staff witness E. Townsend-Hough	34
Testimony by declaration	34
Hazardous Materials Management	33/35
Applicant witness N. Linscott	33
Testimony by declaration	33
Exhibits	33
CEC Staff witness G. Lesh	35
Testimony by declaration	35
Socioeconomics	36
Applicant witness D. Clark	36
Testimony moved to future date	36
CEC Staff witness J. Diamond	37
Testimony by declaration	37
Energy Resources	38
CEC Staff witness S. Baker	38
Direct Examination by Ms. DeCarlo	39
Exhibits	40
Cross-Examination by Mr. Thompson	45
Cross-Examination by Mr. Joseph	46
Examination by Committee	50
Project Configuration	55
Applicant witness D. Tateosian	56
Direct Examination by Mr. Thompson	56
Exhibits	57
Cross-Examination by Mr. Joseph	58
Exhibit	60
Redirect Examination by Mr. Thompson	69
Examination by Committee	70

I N D E X

	Page
Applicant exhibits, testimony, declarations received	75
CEC Staff exhibits, testimony, declarations received	75
Intervenor CURE exhibit received	75
Prehearing Conference	75
Applicant	76
CEC Staff	77
Intervenor CURE	77
Closing Remarks	81
Adjournment	81
Reporter's Certificate	82

P R O C E E D I N G S

10:05 a.m.

HEARING OFFICER FAY: This is the first evidentiary hearing in the Riverside Energy Resource Center small power plant exemption proceeding. And I'd like to begin by introductions.

I'm Gary Fay, the Hearing Officer for this case. And to my left is Commissioner Jackalyne Pfannenstiel, the Presiding Member. To my right is Commissioner John Geesman, the Associate Committee Member. And Commissioner Pfannenstiel's Adviser, Tim Tutt, is to my far left.

Mr. Thompson, would you introduce your participants.

MR. THOMPSON: Yes, Mr. Fay, thank you very much. My name is Allan Thompson; I'm CEC Counsel for the City of Riverside Public Utilities. To my immediate right is Bob Gill who works for the City of Riverside Public Utilities. He's the City of Riverside's Project Manager.

And to his right is David Tateosian, who will be a witness today, but is also Lead Project Manager for Power Engineers, the outside

1 engineering firm. Behind me, Raychele Sterling,
2 who is with the City Attorney's Office of the City
3 of Riverside. Kevin Lincoln, who will be a
4 witness today in three different areas, and is
5 kind of the guy that put a lot of this together
6 for Power Engineers, Permitting Lead.

7 HEARING OFFICER FAY: Thank you. Ms.
8 DeCarlo, for the staff.

9 MS. DeCARLO: Thank you. Lisa DeCarlo,
10 Staff Counsel. To my right is James Reede, Staff
11 Project Manager for this case. And behind me is
12 Steve Baker, staff witness for energy resources.

13 HEARING OFFICER FAY: Okay. And, Mr.
14 Joseph.

15 MR. JOSEPH: Good morning, Mr. Fay,
16 Commissioners. My name is Marc Joseph; I
17 represent California Unions for Reliable Energy.

18 HEARING OFFICER FAY: The Public Adviser
19 is not literally -- well, yes, she is represented.
20 Nick Bartsch is in the back there. And if anybody
21 does come in I'm sure Nick will waylay them and
22 inform them of the opportunity they have to
23 participate.

24 And, Nick, what I told Ms. Kim is that
25 we'd like to take public comment topic-by-topic,

1 so if somebody does come in you might encourage
2 them to target the time when we take the topic up.
3 They'll have to be nimble because many of these
4 will go quickly, since we're taking most of the
5 evidence today on declaration.

6 But, in any case, if somebody has a
7 scheduling problem or comes in a little late, call
8 that to my attention and we'll be sure to get
9 their comments on the record.

10 By way of background, well, let me also
11 say we have Bill Taylor helping us with the
12 telecommunication. Do we have anybody on the
13 line? Nobody's on the telephone, okay, thank you.

14 This is the, as I said, first day of
15 evidentiary hearings in this case. Public notice
16 of today's hearing was issued to the parties to
17 the proceeding at the prehearing conference. And
18 a followup written notice was issued with the
19 hearing order setting today's hearing, which will
20 go tomorrow, if necessary. And also setting the
21 second set of hearings for August 30th through
22 September 1st. Extra copies of the hearing order
23 are available on the front table. I'd like to
24 thank Mr. Gill for his help in lining up some nice
25 facilities for us down there for the hearings.

1 The purpose of today's formal
2 evidentiary hearing is to establish the factual
3 record necessary to reach a decision in this case.
4 This is done through the taking of written and
5 oral testimony, as well as taking exhibits from
6 the parties.

7 For the convenience of the parties the
8 Committee has prepared a tentative list of
9 exhibits with space to mark the new exhibit
10 numbers as the exhibits are identified.

11 I believe the parties present are all
12 familiar with our procedures and the proper way to
13 present witnesses and to introduce evidence.
14 Presentations will occur in the following order:
15 We're going to review a few preliminary matters
16 and we'll move into the list of topic areas
17 identified on attachment A of the hearing order.
18 And we'll proceed in that order.

19 I suggest that at the end of the hearing
20 we move all the exhibits in at that time just to
21 be more efficient. And then we will update or
22 give the parties an opportunity to update their
23 prehearing conference statements, because I know
24 that we called for those early on before the final
25 assessment came out. There's been evolution in

1 the case, so we want to refine that so that we can
2 make the best use of our time at the end of the
3 month and know as much as possible about what the
4 parties' plans are.

5 I understand from the parties that most
6 of today's topics are not in dispute and that CURE
7 has indicated a need for cross-examination only of
8 the staff witness on energy resources and of the
9 applicant's witness on project configuration, is
10 that correct, Mr. Joseph?

11 MR. JOSEPH: Yes, it is.

12 HEARING OFFICER FAY: I'm informed no
13 party wishes to cross-examine any witness
14 concerning hazardous material management. Where
15 there's no need for cross-examination a party may
16 introduce written prefiled testimony with a
17 declaration by the witness who prepared the
18 testimony signed under penalty of perjury.

19 The parties are responsible for filing
20 with the Commission's docket unit, and in
21 addition, directly with the Hearing Officer,
22 copies of all exhibits which they introduce into
23 evidence today.

24 While addressing a specific topic, each
25 party shall either identify the specific exhibits

1 related to and supporting each testimony, or refer
2 to the location of any reference to the exhibits
3 when it's written and prefiled exhibit or
4 testimony. The purpose of this is to insure that
5 our transcript contains a complete reference to
6 the supporting record at the place in the
7 transcript where the topic is discussed.

8 I suggest that all exhibits be moved
9 into evidence at one time after the topics have
10 been addressed.

11 Members of the public and interested
12 agencies are invited to offer public comment after
13 the evidence is received in each topic area. And
14 please speak up and indicate your intention so
15 that we may make time for you in the schedule.

16 As I mentioned, Nick Bartsch is in back.
17 He's with Margret Kim's Office. Ms. Kim is our
18 Public Adviser, and her office is available to
19 help anybody that wishes to participate.

20 Are there any questions before we begin?
21 Okay.

22 On preliminary matters I received word
23 from Mr. Thompson that there were a few changes.
24 One is that Kevin Lincoln will appear in person in
25 the areas designated on attachment A. Jeff

1 Johnston and Karl Lany and David Clark are all
2 scheduled for the hearing beginning August 30th.
3 Nancy Linscott, who offered testimony on waste and
4 hazardous materials, will -- her testimony will be
5 introduced by declaration. And John Baker will be
6 a live witness on August 30th regarding the topic
7 of hydrology.

8 Any other preliminary matters before we
9 begin?

10 MR. THOMPSON: Mr. Fay, if I may, the
11 other change was to have Steve Badgett, who was
12 our City policy witness, moved to the hearings --
13 and my apologies -- the hearings that will be held
14 at the end of the month in the City of Riverside.
15 My apologies for that, but being a city official,
16 we thought it would be better to have him in the
17 City down there.

18 HEARING OFFICER FAY: Right. I think
19 that's reflected on the hearing order --

20 MR. THOMPSON: Okay, great.

21 HEARING OFFICER FAY: -- under the
22 project policy.

23 MR. THOMPSON: Yes.

24 HEARING OFFICER FAY: Was there any
25 other topic that he testified on?

1 MR. THOMPSON: No. That's it.

2 HEARING OFFICER FAY: All right. With
3 that, Mr. Thompson, are you ready to begin? We'll
4 start with agriculture and soils resources.

5 MR. THOMPSON: Yes, I would like to call
6 Kevin Lincoln.

7 HEARING OFFICER FAY: Okay.

8 MR. THOMPSON: Is it acceptable to sit
9 up there, or did you have a --

10 HEARING OFFICER FAY: Well, if you can
11 juggle things down there I think it might be
12 easier.

13 MR. THOMPSON: Okay.

14 HEARING OFFICER FAY: Just a little less
15 time. We're going to be up and down a lot today.

16 MR. THOMPSON: Okay.

17 HEARING OFFICER FAY: It might be less
18 walking if you can stay right there.

19 MR. THOMPSON: The tentative list of
20 exhibits, can we make that the list of exhibits, 1
21 through 12, or at least 1 through 11. I don't
22 want to speak to staff's exhibit.

23 HEARING OFFICER FAY: Do you plan to
24 offer all those exhibits today?

25 MR. THOMPSON: Well, I think as we roll

1 through the testimony almost all of them will be
2 referred to in the prepared testimony or on live,
3 yes.

4 HEARING OFFICER FAY: At various times,
5 okay.

6 MR. THOMPSON: At various times.

7 HEARING OFFICER FAY: All right. Fine,
8 then exhibits 1 through 12 we'll just identify as
9 the final exhibit number is the same as the
10 tentative exhibit number.

11 Will the court reporter please swear the
12 witness.

13 Whereupon,

14 KEVIN LINCOLN

15 was called as a witness herein, and after first
16 having been duly sworn, was examined and testified
17 as follows:

18 DIRECT EXAMINATION

19 BY MR. THOMPSON:

20 Q Would you please state your name for the
21 record.

22 A My name is Kevin Lincoln.

23 Q And by whom are you employed?

24 A Power Engineers.

25 Q Applicant has previously sent out

1 prepared direct -- a document entitled, prepared
2 direct testimony by Kevin Lincoln. Do you have
3 that in front of you?

4 A Yes, I do.

5 Q And are you the same Kevin Lincoln that
6 is mentioned therein and whose r, sum, has been
7 submitted in this proceeding attached to the
8 prehearing conference statement?

9 A Yes, I am.

10 Q Now, I'm going to ask you to fill in the
11 exhibits according to the exhibit numbers that we
12 finalized just a minute ago, and ask you if I am
13 correct in these exhibits.

14 Exhibit 1 goes in the first blank under
15 question 3A, that is the application?

16 A Yes.

17 Q The next exhibit blank is exhibit 2,
18 which are the responses to staff data requests.
19 The next exhibit is 4, which is, if you'll look on
20 the sheet, the letter from Power Engineers to
21 Glenn Robertson of the Santa Ana Regional Water
22 Quality Control Board.

23 The next is exhibit 6, response 12A and
24 12B; and those are responses to CURE data requests
25 set 1, is that correct?

1 A Yes.

2 Q The next is exhibit 8, which are
3 responses 20 and 21 to CURE's data request set
4 number 2 --

5 HEARING OFFICER FAY: Excuse me.
6 Exhibit 8 I show response 21 and 22. Did I miss
7 something in the order?

8 MR. THOMPSON: No, maybe I'm missing
9 something in the order.

10 HEARING OFFICER FAY: I have exhibits 1,
11 2, 4, 6 -- the next one you said 8? And that
12 shows, it's typed response 21 and 22.

13 MR. THOMPSON: I think that's correct;
14 that's response to CURE's data request numbers 21
15 and 22. No, I don't think that is right. Just a
16 minute.

17 My apologies, instead of exhibit 8 that
18 is exhibit 9, the response to CURE's data request
19 set number 3. So rolling down the list it would
20 be exhibits 1, 2, 4, 6, 9, and then the last one
21 is exhibit 10, which is the FAA application.

22 HEARING OFFICER FAY: So is exhibit 9
23 mislabeled as typed?

24 MR. THOMPSON: No, it was misconstrued
25 by me. I asked you to put in exhibit number 8,

1 and I should have asked you to put in exhibit
2 number 9.

3 HEARING OFFICER FAY: Okay. Go ahead.

4 BY MR. THOMPSON:

5 Q Do you have any corrections, additions
6 or deletions to make to your prepared testimony or
7 the exhibits just mentioned?

8 A No.

9 Q If I were to ask you the same questions
10 today in your prepared direct testimony would your
11 answers be the same now that you are under oath?

12 A Yes.

13 Q Would you please give the Committee and
14 the parties here a brief summary of your
15 testimony.

16 A Yes. Section 1 of the executive summary
17 is, I was involved in preparing for the small
18 power plant exemption application. Section 2.2,
19 the site location and layout, referring to the 12-
20 acre project site, and the general layout there,
21 which was section 2.2 of the small power plant
22 exemption.

23 Section 6.2, land use, was prepared
24 under my direction by our land use specialist. No
25 significant impacts were reported there. Section

1 6.9, traffic and transportation, was prepared
2 under my direction by a consultant to us, as well
3 as the applications to the FAA and the Airport
4 Land Use Commission, we prepared, as well.

5 And section 6.10, agriculture and soils
6 was prepared under my direction by our soils
7 scientist.

8 And data responses 46 through 48, 58 and
9 62 to the CEC were prepared by myself, as well as
10 the letter to the Santa Ana Regional Water Quality
11 Control Board describing the project, the
12 project's stormwater system. That was prepared by
13 me and submitted to the Regional Water Quality
14 Control Board.

15 Response to CURE data request 12A and
16 12B were submitted by me. As well as response 21
17 and 22 to CURE.

18 Q Finally, Mr. Lincoln, I believe that one
19 of the outstanding issues has been FAA approval or
20 some document from FAA. Would you inform the
21 Committee as to where that stands.

22 A Yes. We have been in contact with them
23 as recently as yesterday. They have evidently
24 made their determination. They would not verbally
25 give us that determination, but the letter would

1 be going out within a week. So we are expecting
2 that shortly.

3 Q Thank you. Does that complete your
4 direct testimony?

5 A Yes, it does.

6 MR. THOMPSON: We will submit the FAA
7 letter when we get it. If it's within a day of
8 when we submit our testimony, we may attach it to
9 some testimony. But we will get it to you as soon
10 as we get it.

11 HEARING OFFICER FAY: Okay. And why is
12 that coming up regarding ag and soil resources?

13 MR. THOMPSON: I think it actually came
14 up under traffic and transportation. I think the
15 air report traffic comes under the transportation
16 part.

17 HEARING OFFICER FAY: Okay. But Mr.
18 Lincoln will be available when we take that topic
19 up, as well?

20 MR. THOMPSON: Most certainly.

21 HEARING OFFICER FAY: Okay, thank you.

22 MR. THOMPSON: Mr. Lincoln is tendered
23 for cross-examination.

24 HEARING OFFICER FAY: Okay. Any of the
25 parties have questions of this witness?

1 MS. DeCARLO: No cross for staff.

2 MR. JOSEPH: No.

3 HEARING OFFICER FAY: Okay. All right,
4 thank you, Mr. Lincoln.

5 We'll now move to the staff on ag and
6 soil resources.

7 MS. DeCARLO: Thank you, Hearing Officer
8 Fay. Tony Mediati is sponsoring staff's
9 agriculture and soil resources testimony. His
10 declaration and r, sum, are included in the final
11 initial study.

12 Staff concluded that there would be no
13 impact in most areas of the agriculture and soil
14 resources analysis. And that the potential for
15 the project to cause substantial soil erosion or
16 the loss of topsoil would be less than significant
17 with mitigation incorporated.

18 This conclusion is based on the
19 applicant's proposal to employ mitigation and
20 sedimentation erosion control measures consistent
21 with construction best management practices.

22 HEARING OFFICER FAY: Okay. Thank you.
23 Any objection to receiving Mr. Mediati's testimony
24 as submitted?

25 MR. THOMPSON: None from applicant.

1 MR. JOSEPH: No.

2 HEARING OFFICER FAY: I hear none, so
3 we'll take that into the record at this time.

4 And I understand CURE does not have a
5 witness on this topic, is that correct?

6 MR. JOSEPH: That's correct.

7 HEARING OFFICER FAY: All right, thank
8 you. Then that concludes our review and receiving
9 evidence on ag and soils resources.

10 The next topic is cultural resources.

11 MR. THOMPSON: Mr. Fay, do you want me
12 to move exhibits at the end of the day? There are
13 two exhibits that Mr. Lincoln is sponsoring that
14 no other witness will be sponsoring. I can do it
15 at the end of the day; I can do it now, whatever
16 you prefer.

17 HEARING OFFICER FAY: Why don't we do it
18 all at the end of the day.

19 MR. THOMPSON: Very good.

20 HEARING OFFICER FAY: Can you just
21 identify those exhibits that you'll be moving?

22 MR. THOMPSON: Hopefully I'll get it
23 right this time, 4 and 10.

24 HEARING OFFICER FAY: Okay, thank you.
25 Just so the parties know in case they do have

1 concern about that.

2 All right, cultural resources, Mr.
3 Thompson.

4 MR. THOMPSON: Thank you. Cultural
5 resources witness for the applicant is Mr. Pat
6 Maxon. And we have submitted his material,
7 testimony and related exhibits, along with the
8 declaration.

9 And if I could ask that the following
10 exhibits numbers be filled in on his prepared
11 direct testimony.

12 HEARING OFFICER FAY: All right, go
13 ahead.

14 MR. THOMPSON: There are four. The
15 first one is exhibit 1, which is the application;
16 the next exhibit number is 2, which are
17 applicant's responses to staff data requests. And
18 then comes exhibit 3, a filing on June 15th. And
19 finally, back to exhibit 2, section 6.4A, this is
20 an appendix to exhibit 2. I'm sorry, I think
21 that's actually an appendix -- exhibit 1. I've
22 either had too much coffee or not enough coffee --
23 exhibit 1, section 6.4.

24 HEARING OFFICER FAY: So instead of
25 exhibit 2 it should say exhibit 1 --

1 MR. THOMPSON: Yes.

2 HEARING OFFICER FAY: -- on the last,
3 okay.

4 MR. THOMPSON: Yes, and it's an
5 attachment.

6 HEARING OFFICER FAY: Okay. And that's
7 coming in on declaration?

8 MR. THOMPSON: Yes.

9 HEARING OFFICER FAY: Is there objection
10 to receiving that testimony on declaration? I
11 hear none, okay.

12 We'll go to the staff.

13 MS. DeCARLO: Thank you. Dorothy Torres
14 is sponsoring staff's cultural resources
15 testimony. Her declaration and r, sum, are
16 included in the final initial study, exhibit 12.

17 Staff concluded that the project's
18 impacts to cultural resources would be less than
19 significant with mitigation incorporated. This
20 conclusion is based upon the applicant's proposed
21 mitigation measures and the seven conditions of
22 exemption set forth in the final initial study.

23 HEARING OFFICER FAY: Thank you. Any
24 objection to receiving the testimony of Ms. Torres
25 into the record?

1 MR. THOMPSON: None from applicant.

2 HEARING OFFICER FAY: All right.

3 Anything further on cultural resources?

4 Okay, let's move to geology, mineral
5 resources and paleontology.

6 MR. THOMPSON: There are two witnesses
7 for applicant indicated on the prehearing
8 conference order. One we would like to move in by
9 declaration today, and that is the prepared direct
10 testimony of Della Snyder.

11 And there is one exhibit number in her
12 testimony, and that is the application; that would
13 be exhibit 1. That is in response to answer,
14 response 3, question and answer response 3 in her
15 prepared direct. And a declaration signed by Ms.
16 Snyder was attached to the prepared direct
17 testimony.

18 HEARING OFFICER FAY: The exhibit number
19 again for hers?

20 MR. THOMPSON: One.

21 HEARING OFFICER FAY: Okay. All right,
22 thank you.

23 MR. THOMPSON: By way of explanation, we
24 have one witness for paleontology and another for
25 geology. Ms. Snyder is in the area of

1 paleontology.

2 HEARING OFFICER FAY: Okay, are you
3 offering Mr. Johnston's testimony, as well?

4 MR. THOMPSON: We are not. We think
5 that the geology may be an issue, so we would like
6 to reserve him live for the next set of hearings.

7 HEARING OFFICER FAY: That will come up
8 in terms of silt questions regarding air quality,
9 is that correct?

10 MR. THOMPSON: Exactly.

11 HEARING OFFICER FAY: Okay. Any
12 objection to receiving that testimony into the
13 record? All right, I'd direct that that be
14 entered.

15 Staff.

16 MS. DeCARLO: Thank you. Dr. Dal Hunter
17 is sponsoring staff's geology, mineral resources
18 and paleontology testimony. His declaration and
19 r, sum, are included in the final initial study
20 exhibit 12.

21 Staff concluded that the project would
22 have no impact in most areas of the geology,
23 mineral resources and paleontology analysis. And
24 that it would have a less than significant impact
25 with mitigation incorporated with regard to two

1 items.

2 One, the potential to expose people or
3 structures to potential substantial adverse
4 effects, including the risk of loss, injury or
5 death involving strong seismic ground shaking.

6 And two, the potential to directly or
7 indirectly destroy a unique paleontological
8 resource or site or unique geological feature.

9 The conclusion with regard to geology is
10 based upon the applicant's proposal to design and
11 construct the project in conformance with
12 California building standards code requirements
13 for seismic zone four, and condition of exemption
14 Geo-1.

15 The conclusion with regard to
16 paleontology is based upon the applicant's
17 proposal to retain a qualified paleontologist to
18 design and implement a paleontological resources
19 monitoring and mitigation program during
20 construction activities.

21 HEARING OFFICER FAY: Thank you. Any
22 objection to receiving the proffered testimony of
23 Dal Hunter?

24 MR. THOMPSON: None from applicant.

25 MR. JOSEPH: No.

1 HEARING OFFICER FAY: All right, I hear
2 none, so that is entered in the record. Anything
3 further on geology, mineral resources and
4 paleontology? And we are reserving that the silt
5 question until air quality is brought up.

6 Land use.

7 MR. THOMPSON: Applicant has previously
8 put Mr. Lincoln on the stand in rolling through
9 the three areas that he is responsible for. Land
10 use was one of those. I would not propose to have
11 him take the stand again unless you would prefer
12 to have that happen.

13 HEARING OFFICER FAY: Okay, so you've
14 covered the testimony that he is sponsoring as you
15 went through the exhibits?

16 MR. THOMPSON: Yes, we did.

17 HEARING OFFICER FAY: It looks like it's
18 exhibit 1, section 6.2. Any other specific
19 portions that are related specifically to land
20 use?

21 MR. LINCOLN: 46 and 47 --

22 MR. THOMPSON: That would be exhibit 2,
23 responses 46 and 47.

24 MR. LINCOLN: That would be a response
25 to CEC data request 46 and 47 --

1 MR. THOMPSON: Right, exhibit 2,
2 responses 46 and 47. And that's it.

3 HEARING OFFICER FAY: All right, any
4 objection to receiving Mr. Lincoln's testimony in
5 those areas addressing land use?

6 If you'd bear with me I'd like to break
7 it down so our transcript reflects all these
8 discrete areas.

9 Hearing none, let's move to the staff on
10 land use.

11 MS. DeCARLO: Thank you. Amanda
12 Stennick is sponsoring staff's land use testimony.
13 Her declaration and r, sum, are included in the
14 final initial study, exhibit 12.

15 Staff concluded that the project would
16 have no impact in all areas of the land use
17 analysis. Staff has set forth one condition of
18 exemption to insure that the project will comply
19 with the City of Riverside zoning ordinance.

20 HEARING OFFICER FAY: Okay. Thank you.
21 Any objection to receiving Ms. Stennick's
22 testimony on land use?

23 MR. THOMPSON: None from applicant.

24 MR. JOSEPH: No.

25 HEARING OFFICER FAY: Hearing none, all

1 right, we'll receive it into the record at this
2 point.

3 Applicant, public health.

4 MR. THOMPSON: Yes, we are hoping that
5 we can save public health because it's the same
6 witness that will be responding and testifying to
7 air quality. And he is not here today, and we
8 were just hoping we could cover public health when
9 we have him on the stand at the next set of
10 hearings.

11 HEARING OFFICER FAY: Does staff have
12 any plans to bring Mr. Odoemelam to a separate
13 hearing on --

14 MS. DeCARLO: No, we do not.

15 HEARING OFFICER FAY: All right, so you
16 would like to introduce his testimony now by
17 declaration?

18 MS. DeCARLO: Yes, that is preferable.

19 HEARING OFFICER FAY: You're going to
20 hold off on Mr. Lany's testimony?

21 MR. THOMPSON: Yes. I think I owe a
22 short explanation to the Committee. We have the
23 fourth set of CURE data requests which are most
24 all in the air quality area. And we are trying
25 mightily to get those out in time at the same time

1 that we are trying to prepare for the hearings.

2 So, I beg your indulgence of not having
3 him here today. We have no objection to the
4 admission of Obed's testimony.

5 HEARING OFFICER FAY: Okay. If there's
6 no objection why don't we just have the
7 understanding that public health will come up
8 again in the context of air quality, but today
9 we'll let staff offer the testimony of Dr.
10 Odoemelam.

11 And so, Ms. DeCarlo.

12 MS. DeCARLO: Thank you. Obed Odoemelam
13 is sponsoring staff's public health testimony.
14 His declaration and r, sum, are included in the
15 final initial study, exhibit 12.

16 Staff concluded that the project's
17 impact to public health would be less than
18 significant with mitigation incorporated. This
19 conclusion is based upon conditions of exemption
20 included in the air quality and public health
21 sections of the final initial study, exhibit 12.

22 HEARING OFFICER FAY: Any objection to
23 receiving that testimony proffered by staff?

24 MR. THOMPSON: No.

25 MR. JOSEPH: No.

1 HEARING OFFICER FAY: All right, we'll
2 receive Dr. Odoemelum's testimony at this point,
3 and revisit public health in the context of air
4 quality at the later hearings.

5 Traffic and transportation. Mr. Lincoln
6 is again the witness. And, Mr. Thompson, if you
7 would identify which portions of the testimony
8 pertain specifically to traffic and
9 transportation, we'd appreciate that.

10 MR. THOMPSON: Thank you, yes. I
11 believe exhibit 1, section 6.9; exhibit 2,
12 responses to staff data request numbers 58 and 62.

13 MR. LINCOLN: And exhibit 6, responses
14 to 12A and 12B.

15 MR. THOMPSON: Exhibit 6, responses to
16 12A and 12B. And exhibit 10, which is the FAA
17 application. And I think that 's it.

18 HEARING OFFICER FAY: Okay. And so
19 you're offering all these as his testimony on
20 traffic and transportation?

21 MR. THOMPSON: Yes, we are.

22 HEARING OFFICER FAY: Okay, any
23 objection to receiving those? Hearing none, we'll
24 move to the staff.

25 MS. DeCARLO: David Flores is sponsoring

1 staff's traffic and transportation testimony. His
2 declaration and r, sum, are included in the final
3 initial study, exhibit 12.

4 Staff concluded that the project would
5 have no impact in some areas of the traffic and
6 transportation; also would have a less than
7 significant impact with regard to creating a
8 significant hazard to the public or the
9 environment through the routine transportation of
10 hazardous material; and would have a less than
11 significant impact with mitigation incorporated in
12 three areas.

13 One, causing an increase in traffic that
14 is substantial in relation to the existing traffic
15 load and capacity of the street system. Two,
16 exceeding, either individually or cumulatively, a
17 level of service standard established by the
18 County Congestion Management Agency, designated
19 roads or highways. And three, resulting in a
20 change in air traffic patterns including either an
21 increase in traffic levels or a change in location
22 that results in substantial safety risks.

23 Staff concluded that the construction
24 traffic control plan and implementation program
25 proposed by the applicant and the four traffic and

1 transportation conditions of exemption set forth
2 in the final initial study, exhibit 12, would
3 reduce these potential impacts to a less than
4 significant level.

5 HEARING OFFICER FAY: Okay. Any
6 objection to receiving Mr. Flores' testimony by
7 declaration?

8 MR. THOMPSON: No.

9 MR. JOSEPH: No.

10 HEARING OFFICER FAY: Hearing none,
11 we'll accept that into the record.

12 And move to transmission line safety and
13 nuisance.

14 MR. THOMPSON: Thank you very much. We
15 have submitted the prepared direct testimony of
16 Mr. Curt Bell, along with the declaration. And if
17 I could make an attempt at filling in the two
18 exhibit blanks. Response to question, prepared
19 direct testimony question 3A, the first exhibit is
20 exhibit 1, which is the application. The second
21 is exhibit 2, which is a response to the staff
22 data request.

23 HEARING OFFICER FAY: Okay, anything
24 further?

25 MR. THOMPSON: Nothing further.

1 HEARING OFFICER FAY: Okay, any
2 objection to receiving Mr. Bell's testimony on
3 declaration?

4 All right, hearing none, we'll move to
5 the staff.

6 MS. DeCARLO: Thank you. Obed Odoemelum
7 is sponsoring staff's transmission line safety and
8 nuisance testimony. His declaration and r, sum
9 are included in the final initial study, exhibit
10 12.

11 Staff concluded that the project's
12 impacts with regard to transmission line safety
13 and nuisance will be less than significant. Staff
14 has proposed five conditions of exemption to
15 insure the project complies with the required
16 design and operational measures.

17 HEARING OFFICER FAY: Any objection to
18 receiving Dr. Odoemelum's transmission line safety
19 and nuisance testimony by declaration?

20 MR. THOMPSON: None from applicant.

21 MR. JOSEPH: No.

22 HEARING OFFICER FAY: All right.

23 Transmission system engineering, Mr.
24 Thompson.

25 MR. THOMPSON: Thank you. We have

1 submitted the prepared direct testimony of Mr.
2 Lyle Hill, together with his declaration. I have
3 four exhibit numbers to fill in on that material.

4 The first is exhibit 1, which is
5 applicant's application. The next exhibit is
6 exhibit 2, which are a number of responses to
7 staff data requests. And then exhibit 3, part of
8 which is a confidential filing, and part of which
9 is not confidential which discusses the
10 transmission line spacing and the age of the
11 distribution lines. Finally, the last one is
12 exhibit 6, which is a response to CURE's data
13 request set 1.

14 HEARING OFFICER FAY: That was exhibits
15 1, 2, 3 and 6?

16 MR. THOMPSON: Yes.

17 HEARING OFFICER FAY: Anything further?

18 MR. THOMPSON: Not from applicant.

19 HEARING OFFICER FAY: Okay, any
20 objection to receiving Mr. Hill's testimony on
21 declaration?

22 I hear none, we'll move to the staff.

23 MS. DeCARLO: Thank you. Sudath
24 Arachchige, Demy Bucaneg and Al McCuen are all
25 sponsoring staff's transmission system engineering

1 testimony. Their declarations and r, sum, s are
2 included in the final initial study, exhibit 12.

3 Staff concluded that the project would
4 not cause any significant adverse impacts on the
5 electric system.

6 HEARING OFFICER FAY: Okay. Any
7 objection to receiving that at this time?

8 MR. THOMPSON: No.

9 HEARING OFFICER FAY: Hearing none we'll
10 accept that testimony and move to visual
11 resources.

12 MR. THOMPSON: Thank you. We have
13 submitted the prepared direct testimony of Mr.
14 Thomas Dildine, along with his declaration. There
15 are two exhibit numbers to fill in on that
16 material in response to prepared question 3.

17 The first exhibit number is 1, which is
18 the visual resources section of the application.
19 The next exhibit number is exhibit 2, which are
20 the responses to staff data requests.

21 HEARING OFFICER FAY: Thank you.
22 Anything further?

23 MR. THOMPSON: Not from applicant.

24 HEARING OFFICER FAY: Any objection to
25 receiving Mr. Dildine's testimony by declaration?

1 Hearing none, we'll move to the staff.

2 MS. DeCARLO: Thank you. Mark Hamblin
3 is sponsoring staff's visual resources testimony.
4 His declaration and r, sum, are included in the
5 final initial study, exhibit 12.

6 Staff concluded that the project will
7 have a less than significant impact in most areas
8 of the visual resources analysis, and would have
9 no impact on any scenic vistas.

10 HEARING OFFICER FAY: You said
11 insignificant in most areas?

12 MS. DeCARLO: Yes, and then no impact
13 in -- with regard to scenic vistas.

14 HEARING OFFICER FAY: Oh, I see, so when
15 you say areas you mean just categories of
16 analysis?

17 MS. DeCARLO: Right, just according to
18 the CEQA checklist that we followed in our
19 analysis.

20 HEARING OFFICER FAY: As opposed to key
21 observation points or the appearance from certain
22 areas?

23 MS. DeCARLO: Right, right, we're just
24 breaking it down into impacts versus KOPs.

25 HEARING OFFICER FAY: All right. Thank

1 you. Any objection to receiving Mr. Hamblin's
2 testimony by declaration?

3 MR. THOMPSON: Not from applicant.

4 MR. JOSEPH: No.

5 HEARING OFFICER FAY: Hearing none we'll
6 move to waste management.

7 MR. THOMPSON: Thank you. Mr. Fay,
8 waste management is the next topic in order, but
9 also hazardous materials management is the first
10 topic on the second page of the prehearing
11 conference order. And our witness, Ms. Nancy
12 Linscott, is testifying. We lumped those two
13 together.

14 So if it's acceptable I will offer her
15 direct testimony in those two areas by declaration
16 at this time.

17 HEARING OFFICER FAY: Okay. Any
18 objection to doing that?

19 MR. THOMPSON: We have previously
20 submitted the prepared direct testimony of Nancy
21 Linscott, along with the declaration.

22 There are two exhibit numbers to be
23 filled in on the face of that exhibit. The first
24 exhibit number is exhibit 1, which is applicant's
25 application, and two sections in there, hazardous

1 materials management and hazardous materials. And
2 exhibit 2, responses to two of the staff data
3 requests. That completes the fill-ins.

4 HEARING OFFICER FAY: Okay. Anything
5 further in those topic areas regarding Ms.
6 Linscott's testimony from the applicant?

7 MR. THOMPSON: No.

8 HEARING OFFICER FAY: Any objection to
9 receiving that testimony by declaration? Okay.
10 We'll enter that into the record and move to the
11 staff.

12 MS. DeCARLO: Would you prefer us to do
13 both hazardous materials management and waste
14 management at this time.

15 HEARING OFFICER FAY: Yes, I don't think
16 that's a problem.

17 MS. DeCARLO: Okay.

18 HEARING OFFICER FAY: Under the
19 circumstances.

20 MS. DeCARLO: Ellie Townsend-Hough is
21 sponsoring staff's waste management testimony.
22 Her declaration and r, sum, are included in the
23 final initial study, exhibit 12.

24 Staff concluded that the project would
25 have no impact in some areas of the waste

1 management analysis. It would have a less than
2 significant impact with regard to being served by
3 a landfill with sufficient permitting capacity to
4 accommodate the project's solid waste disposal
5 needs.

6 And would have a less than significant
7 impact with mitigation incorporated with regard to
8 creating a significant hazard to the public or the
9 environment through the routine transport, use or
10 disposal of hazardous materials. This latter
11 conclusion is based upon staff's proposed
12 condition of exemption Waste-1.

13 HEARING OFFICER FAY: Thank you. Any
14 objection to receiving Ms. Townsend-Hough's
15 testimony by declaration?

16 MR. THOMPSON: None from the applicant.

17 HEARING OFFICER FAY: Hearing none, that
18 will be received. You also have testimony from
19 witnesses on hazardous materials management?

20 MS. DeCARLO: Yes. Geoff Lesh is
21 sponsoring staff's hazardous materials management
22 testimony. His declaration and r, sum, are
23 included in the final initial study, exhibit 12.

24 Staff concluded that the project would
25 have no impact in most of the areas of hazardous

1 materials management analysis. It would have a
2 less than significant impact with regard to
3 resulting in a safety hazard for people residing
4 or working in the project area. And it would have
5 a less than significant impact with mitigation
6 incorporated with regard to two items.

7 Number one, creating a significant
8 hazard to the public or the environment through
9 routine transport or use of hazardous materials.
10 And two, creating a significant hazard to the
11 public or the environment through reasonably
12 foreseeable upset and accident condition involving
13 the release of hazardous materials into the
14 environment.

15 This conclusion is based upon the
16 project's proposed conformance with standards and
17 laws, and the three conditions of exemption set
18 forth in the final initial study.

19 HEARING OFFICER FAY: Thank you. Any
20 objection to receiving that by declaration?

21 MR. THOMPSON: No.

22 HEARING OFFICER FAY: Hearing none, I'll
23 accept that. The next topic is socioeconomics.

24 MR. THOMPSON: We have a socioeconomic
25 witness that we were hoping to put on on the next

1 set of hearings. We suspect that the issue of
2 environmental justice will be one of CURE's
3 issues, so we would have that witness speak to
4 that issue, if that's acceptable to the Committee,
5 at the hearings starting on the 30th.

6 HEARING OFFICER FAY: Move to the staff,
7 then.

8 MS. DeCARLO: Joseph Diamond is
9 sponsoring staff's socioeconomics testimony. His
10 declaration and r, sum, are included in the final
11 initial study, exhibit 12.

12 Staff concluded that the project would
13 have no impact in all areas of the socioeconomics
14 analysis.

15 HEARING OFFICER FAY: And is Mr. Diamond
16 alone? Not in conjunction with Mr. Edwards?

17 MS. DeCARLO: Correct.

18 HEARING OFFICER FAY: Okay. Any
19 objection to receiving staff's testimony on
20 declaration?

21 MR. THOMPSON: Not from applicant.

22 MR. JOSEPH: No.

23 HEARING OFFICER FAY: Okay. We'll
24 accept that.

25 Now the next topic we have a witness

1 for, at least from the staff. It is energy
2 resources. Is the applicant offering any
3 testimony in that area?

4 MR. THOMPSON: Not at this time.

5 HEARING OFFICER FAY: All right.

6 MR. THOMPSON: We did not identify
7 energy resources as an area in our application
8 that was separate and distinct. We believe that
9 it may be an issue that could be raised by CURE,
10 in which case we would respond with whichever of
11 our witnesses is most appropriate. And I suspect
12 it would not be a new witness, but it would be
13 probably Mr. Tateosian or Mr. Baker, just not sure
14 at this time.

15 HEARING OFFICER FAY: Okay. Since Mr.
16 Tateosian is here today, why don't we just make
17 him available as needed, if we can. But let's
18 hold off on that and move to the staff testimony,
19 and swear the staff witness.
20 Whereupon,

21 STEVE BAKER
22 was called as a witness herein, and after first
23 having been duly sworn, was examined and testified
24 as follows:

25 HEARING OFFICER FAY: Thank you. Mr.

1 Baker, if you'd be more comfortable at the counsel
2 table, there's room for you.

3 MR. BAKER: I'm fine here if you don't
4 mind.

5 HEARING OFFICER FAY: All right.

6 DIRECT EXAMINATION

7 BY MS. DeCARLO:

8 Q Can you please state your name for the
9 record.

10 A Good morning. My name is Steve Baker.

11 Q Was a statement of your qualifications
12 attached to your testimony?

13 A Yes.

14 Q What is your job title?

15 A I'm a Senior of the Facility Design Unit
16 in the Engineering Office of the Facility Siting
17 Division.

18 Q Could you briefly state your education
19 and experience as it pertains to the analysis of
20 energy resources?

21 A I've a bachelor of engineering degree in
22 mechanical engineering. I have a master of
23 business administration degree. I'm a registered
24 professional engineer in the discipline of
25 mechanical. I have 30 years of experience in the

1 electric power field, including design, quality
2 assurance, construction, startup and business
3 development and licensing of nuclear, coal-fired,
4 hydroelectric, geothermal and wind power plants.
5 And the engineering and policy analysis of thermal
6 power plant issues.

7 I've worked for seven years at Bechtel
8 Power Corporation helping to design and build
9 power plants. I worked for six years at Southern
10 Pacific Land Company helping to put together power
11 plant projects and see them through licensing.

12 And I've been at the Energy Commission
13 for 16 and a half years doing just what I'm doing
14 today.

15 I've also completed three classes put on
16 by the American Society of Mechanical
17 Engineering's International Gas Turbine Institute.
18 The courses are entitled, Basic Gas Turbine Engine
19 Technology; the Design of Gas Turbine Engines; and
20 Gas Turbine Applications and Economics.

21 MS. DeCARLO: One procedural matter,
22 Hearing Officer Fay. If we could mark staff's
23 supplemental energy resources testimony.

24 HEARING OFFICER FAY: All right, that
25 will be exhibit 13.

1 MS. DeCARLO: Thank you.

2 BY MS. DeCARLO:

3 Q Mr. Baker, did you prepare or assist in
4 preparing the testimony entitled energy resources
5 in the final initial study, exhibit 12, and
6 supplemental energy resources testimony, exhibit
7 13?

8 A I assisted in and supervised the
9 preparation of the staff assessment testimony and
10 I prepared the supplemental testimony.

11 Q And do the opinions contained in your
12 testimony represent your best professional
13 judgment?

14 A Yes, they do.

15 Q Did you analyze the project's generating
16 capacity consistent with title 20 of the
17 California Code of Regulations, section 2003?

18 A I did.

19 Q And what was your conclusion?

20 A My conclusion is that the generating
21 capacity of the proposed project is 95.6
22 megawatts.

23 Q Have you read CURE's comments on the DIS
24 claiming that the project would exceed 100
25 megawatts?

1 A I have.

2 Q In that analysis CURE claims that the
3 Commission must use the average year-round
4 temperature in order to calculate generating
5 capacity. Do you agree with this assertion?

6 A No, I do not.

7 Q Would you please elaborate?

8 A Certainly. The regulation we're talking
9 about, section 2003, does not specify the time
10 period over which the analysis must be performed.
11 However, that section of the regulations is based
12 upon a staff methodology which I created 16 and a
13 half years ago, and which the staff and the
14 Commission have been using and accepting ever
15 since.

16 In that methodology it's required that
17 the generating capacity be evaluated at
18 conditions, for the ambient conditions experienced
19 during the service period of the power plant. In
20 other words, if the power plant is to be used
21 during certain times of the year, then those
22 conditions at those times of the year are
23 evaluated.

24 Under this scenario the generating
25 capacity of this project would be 95.6 megawatts.

1 Q Notwithstanding the invalidity of CURE's
2 assertion, did you nonetheless analyze the
3 project's generating capacity using the average
4 year-round temperature?

5 A Yes, just for the sake of thoroughness.
6 Some power plants are intended to operate year
7 round, in which case we use the annual average
8 conditions to evaluate the generation.

9 And so just to be thorough we went back
10 and evaluated this project. We found that the
11 generating capacity under annual average
12 conditions would be 97.1 megawatts.

13 Q And did you rely on certain exhibits
14 attached to your testimony in coming to this
15 conclusion?

16 A Yes, I did. Attached to the
17 supplemental testimony is attachment A, which is
18 our staff methodology that we used for this
19 process of calculating generating capacity.

20 Attachment B is information which I
21 requested from the applicant in order to further
22 this analysis. They provided the information
23 that's requested in attachment A, the methodology
24 and questionnaire.

25 In there, in attachment B, on the first

1 page we find the average temperature during the
2 project's proposed operating scenario six months
3 of the year is 72.2 degrees Fahrenheit. And at
4 that temperature the turbines put out a gross
5 output of 99.6 megawatts. This is before
6 subtracting parasitic loads.

7 On the second page of attachment B we
8 find that the chillers that cool the inlet area of
9 the turbines draw 2.039 megawatts. We see also
10 the calculation that shows that the gross output
11 of the turbines, 99.6 megawatts, reduced by the
12 parasitic load of 4.03 megawatts, results in a net
13 generating capacity of 95.6 megawatts.

14 Following that is another page which
15 shows where those temperatures came from. It's a
16 climate summary from the Riverside weather
17 station. The two pages following that are
18 specifications for the turbines in this project.
19 From there we get the site altitude of 730 feet
20 above mean sea level.

21 Following that is a mass energy flow
22 diagram for the project that shows the
23 temperatures of the air flowing into the chillers
24 and then flowing from the chillers to the gas
25 turbines.

1 And finally we see attachment C, which
2 is a computer run from General Electric, the
3 manufacturer of the turbines. This computer run
4 shows that even at the annual average temperature
5 of 64.4 degrees Fahrenheit, the gross output of
6 the turbines is only 99.6 megawatts. From that we
7 would then subtract parasitic loads to come up
8 with the 97.1

9 Q And was your analysis of this project
10 consistent with previous LM6000s that we've
11 analyzed?

12 A Yes.

13 Q Does that conclude your testimony?

14 A Yes, it does.

15 MS. DeCARLO: The witness is available
16 for questions from the Committee on cross-
17 examination.

18 HEARING OFFICER FAY: Does the applicant
19 have any questions of this witness?

20 MR. THOMPSON: Just one.

21 CROSS-EXAMINATION

22 BY MR. THOMPSON:

23 Q Mr. Baker, did I hear you correct that
24 you developed the methodology for evaluating
25 facilities such as this 16 years ago?

1 A As a matter of fact it was the first
2 assignment I was given when I came on staff.

3 Q And has the methodology been used by the
4 staff since that time?

5 A Oh, yes, we've used it many many times.

6 MR. THOMPSON: Thank you, that's all I
7 have.

8 HEARING OFFICER FAY: Does CURE have
9 questions for this witness?

10 MR. JOSEPH: Yes, thank you, Mr. Fay.

11 CROSS-EXAMINATION

12 BY MR. JOSEPH:

13 Q First I want to start by thanking you,
14 Mr. Baker, for doing the analysis that you've
15 provided in your supplemental testimony. In our
16 comments we concluded by requesting that the
17 Commission analyze the generating capacity and
18 provide the analysis that you did provide. And we
19 appreciate that. I thank you for that.

20 MR. JOSEPH: By way of context for the
21 Committee, the filing that we made on the staff's
22 draft initial study had two fundamental parts to
23 it. One, the first part, which was virtually all
24 of the volume of the testimony was about
25 significant impacts under CEQA. The second much

1 smaller portion was about this generating capacity
2 issue.

3 So, based on your supplemental testimony
4 I have just a few questions for you, Mr. Baker.

5 BY MR. JOSEPH:

6 Q You agree, I take it, that as
7 temperature decreases the output of a turbine
8 increases?

9 A Were it not for the inlet air chillers
10 that would be true. However, this plant is
11 equipped with inlet air chillers which are
12 operated any time the temperature is above 46
13 degrees Fahrenheit. As such, the output of the
14 gas turbine would remain constant from 46 degrees
15 up to whatever temperature exists.

16 Q And the purpose of the inlet air
17 chillers is to provide cooler inlet air so that
18 the output of the turbine is greater, is that
19 right?

20 A That's right.

21 Q Now you just testified orally and your
22 supplemental testimony states that the termination
23 of gross rating is supposed to be based on the
24 intended mode of operation. And here the
25 applicant said that this project would operate as

1 a peaking plant during the summer. And so you
2 evaluated initially the capacity based on summer
3 operation because that's what the applicant's
4 intent was, is that right?

5 A That's correct.

6 HEARING OFFICER FAY: Excuse me, and
7 we're talking May through October, is that
8 correct?

9 MR. BAKER: Yes.

10 BY MR. JOSEPH:

11 Q If after the Energy Commission process
12 was over and the applicant changed its mind about
13 how the plant was to be used, would that affect
14 your determination of the gross rating?

15 A It might affect the determination of the
16 gross rating, but it would not affect the
17 determination that the gross rating -- excuse me,
18 the net rating is always less than 100 megawatts.

19 Q In this particular case?

20 A In any case. The reason the General
21 Electric LM6000 gas turbine generator is so
22 popular in California is because it is a sub 50
23 megawatt machine. Wherever you install it in
24 California it will put out less than 50 megawatts,
25 as determined by our methodology and by section

1 2003 of our regulations.

2 Q Is the staff proposing any condition of
3 exemption to limit the operation of this plant to
4 peaking operation during summer?

5 A No. That's not necessary, as I've
6 mentioned. Even if we went back and examined the
7 machine at annual average conditions, the output
8 is still less than 100 megawatts.

9 Q Thank you. Now, just one more question
10 on the specifics. And I think you testified to
11 this, but it went past pretty quickly. You
12 believe that the project -- based on the
13 applicant's statements you believe that the
14 project should be evaluated on the ambient
15 temperature during the season the applicant
16 proposes to use the project, which in this case is
17 72.2 degrees Fahrenheit, is that right?

18 A Yes, that's the way the methodology is
19 written.

20 Q And you agree that 72.2 degrees
21 Fahrenheit is the appropriate temperature at which
22 to evaluate this plant?

23 A Yes.

24 Q Thank you.

25 MR. JOSEPH: That's all the questions I

1 have.

2 HEARING OFFICER FAY: Okay, any
3 redirect?

4 MS. DeCARLO: No.

5 HEARING OFFICER FAY: Okay. Any
6 questions from the Committee of this witness?
7 Just a moment, Mr. Baker.

8 Has there been any time that you're
9 aware of since you've been at the Commission that
10 any analysis other than the one you described in
11 attachment A was used for a power plant, to rate
12 their generation output?

13 MR. BAKER: Not that I'm aware of.

14 HEARING OFFICER FAY: And in your
15 opinion -- well, first of all, do you have any
16 experience with the compliance side of the
17 Commission Staff's analysis?

18 MR. BAKER: Yes, I do. Some years ago
19 we were asked to actually go around and verify
20 that various machines around the state were not
21 producing more than 50 megawatts, or more than 100
22 megawatts.

23 We did a rather extensive investigation,
24 collected records and data from several different
25 generating plants, and found that, indeed, the

1 actual plant generating capacities were as
2 expected. They were less than the 50 or less than
3 the 100. In other words we found no cheaters.

4 HEARING OFFICER FAY: And have you had
5 any recent experience with feedback from
6 compliance, particularly regarding LM6000s?

7 MR. BAKER: Not in the matter of
8 generating capacity, no.

9 HEARING OFFICER FAY: Okay. And does
10 the capacity of the chiller, as I understand it,
11 to essentially balance the output as the
12 temperature changes?

13 MR. BAKER: Excuse me?

14 HEARING OFFICER FAY: Well, am I correct
15 that because of the chiller the output of the
16 project will remain constant as the temperature
17 fluctuates?

18 MR. BAKER: The output of the turbine
19 generators, themselves, will remain constant as
20 the temperature goes up because of the chillers
21 feeding the constant-temperature air to the
22 machines.

23 However, as the temperature goes up the
24 chiller has to work harder, so it draws more
25 parasitic load subtracted from the gross power

1 from the generators. That results in a slightly
2 lower net output for the power plant.

3 HEARING OFFICER FAY: I see. So as the
4 temperature increases there will be a lower net
5 output?

6 MR. BAKER: Yes. But the drop in power
7 is not as great as if there were no chillers at
8 all.

9 HEARING OFFICER FAY: So there's an
10 efficiency in using the chillers, then, correct?

11 MR. BAKER: Yes.

12 HEARING OFFICER FAY: All right, thank
13 you very much, Mr. Baker. Appreciate your
14 testimony, you're excused.

15 That concludes our --

16 MR. JOSEPH: Mr. Fay.

17 HEARING OFFICER FAY: Yes.

18 MR. JOSEPH: Just one note. Mr. Baker's
19 testimony was provided to us near the end of the
20 day on Tuesday, the day before yesterday. And
21 so --

22 HEARING OFFICER FAY: You mean the
23 supplemental testimony?

24 MR. JOSEPH: Yes, the supplemental
25 testimony. And we have not had a chance to

1 thoroughly analyze it. I would just reserve the
2 opportunity, if it should come to pass, to recall
3 Mr. Baker in case, when we have more than 24 hours
4 to look at it, some additional questions arise.

5 HEARING OFFICER FAY: I think that's
6 reasonable, but you're going to have to give staff
7 plenty of notice, since the next hearings would
8 be, most likely the next hearings will be in
9 southern California.

10 MR. JOSEPH: Certainly.

11 HEARING OFFICER FAY: If Mr. Baker has
12 to attend we'd want plenty of lead time for the
13 benefit of the staff.

14 MR. JOSEPH: Certainly.

15 HEARING OFFICER FAY: Ms. DeCarlo, are
16 you offering Mr. Baker's testimony at this time?

17 MS. DeCARLO: Yes.

18 HEARING OFFICER FAY: Is there any
19 objection to receiving that testimony?

20 MR. THOMPSON: None.

21 MR. JOSEPH: No.

22 HEARING OFFICER FAY: Okay. And I take
23 it, Mr. Robinson is not part of the panel?

24 MS. DeCARLO: Correct. He was detained
25 for the past couple of weeks with jury duty, so.

1 HEARING OFFICER FAY: Okay. Thank you.
2 With that, then, we've concluded taking testimony
3 on energy resources with the exception of the
4 reservation made by Mr. Joseph.

5 MR. JOSEPH: And, Mr. Fay, with the
6 exception that we may yet put in testimony on
7 energy resources at the time that our testimony is
8 due.

9 HEARING OFFICER FAY: Okay, but that
10 will be limited to just the scope of supplemental
11 testimony that you received on short notice. Is
12 that understood?

13 MR. JOSEPH: There were two things here.
14 One was reserving the right to recall Mr. Baker.
15 And second is the topic of energy resources may be
16 contained in what we file a week from tomorrow.

17 HEARING OFFICER FAY: Oh, in your
18 direct, since all your direct is coming in at that
19 time, yes. I stand corrected. That's true, yes.

20 MR. JOSEPH: Thank you.

21 HEARING OFFICER FAY: And we'll get to
22 that later. I hope when we get into our
23 prehearing conference session at the end of this
24 that you can inform us, as much as possible, on
25 updating your prior prehearing conference

1 statement, so that we know which topics you'll be
2 filing on, et cetera.

3 Okay, the next topic is identified as
4 project configuration. And, Mr. Thompson, would
5 you describe, in your view, what the scope of that
6 is.

7 MR. THOMPSON: I will try. Our witness
8 is Mr. David Tateosian, who we have introduced
9 previously. And I think the best way to describe
10 what his testimony entails is by looking at the
11 exhibit areas that he will be sponsoring.

12 One is schedule; the gas will-serve
13 letter from Semptra; project lighting; some
14 responses to efficiency of part-load operation;
15 and then responses to the CURE data requests,
16 which are the buildout labeled as units 3 and 4;
17 and then some water resources and construction
18 mitigation.

19 I think that the CURE folks have
20 indicated that they would like to cross at least
21 with regard to the buildout responses that he gave
22 to their data request.

23 But, Mr. Tateosian, in his position as
24 lead outside engineer, if you will, has a very
25 good grasp of the scope of the project from its

1 inception.

2 HEARING OFFICER FAY: All right. Would
3 the court reporter please swear the witness.
4 Whereupon,

5 DAVID TATEOSIAN
6 was called as a witness herein, and after first
7 having been duly sworn, was examined and testified
8 as follows:

9 DIRECT EXAMINATION
10 BY MR. THOMPSON:

11 Q Mr. Tateosian, would you please identify
12 yourself for the record?

13 A My name is Dave Tateosian.

14 Q And you are employed by?

15 A I'm employed by Power Engineers as a
16 Project Manager.

17 Q And what is your relationship to the
18 Riverside Energy Resource Center project?

19 A Power Engineers has filled the role as
20 the owner's engineer. I am the Project Manager
21 for Power's activities in support of the City.

22 Q And are you the same David Tateosian who
23 was identified in the prepared direct testimony of
24 David Tateosian submitted previously in this case?

25 A Yes.

1 Q And if I were to ask you the questions
2 contained in that would your answers today under
3 oath be the same?

4 A Yes.

5 Q You have three blanks for exhibits, and
6 I would like your concurrence with putting some
7 exhibit numbers in there, if I may.

8 The first, exhibit 1, that is
9 applicant's application, section 2.4 is the
10 project schedule, is that correct?

11 A I agree.

12 Q The next blank would be exhibit 2, those
13 are responses to staff data requests. Those are
14 in the areas of Semptra's -- the ability of Semptra
15 to serve gas to the project; project lighting; and
16 a response that was made at the May 26th --

17 A Workshop.

18 Q -- workshop in Riverside that was never
19 assigned a number, but are contained behind tab 12
20 of exhibit 2, specifically the question and answer
21 on part-load efficiency, is that correct?

22 A That's correct.

23 Q And finally, the third blank would be
24 exhibit 6, which are your responses to certain of
25 CURE's data requests set 1, is that right?

1 A That's correct.

2 Q Does that complete your prepared
3 testimony?

4 A Yes.

5 MR. THOMPSON: Mr. Tateosian is tendered
6 for cross-examination.

7 HEARING OFFICER FAY: All right. Does
8 the staff have any questions?

9 MS. DeCARLO: No questions.

10 HEARING OFFICER FAY: No questions. Mr.
11 Joseph.

12 MR. JOSEPH: Yes, thank you.

13 CROSS-EXAMINATION

14 BY MR. JOSEPH:

15 Q If you could turn to exhibit 6,
16 responses to the CURE data requests. And behind
17 one of the attachments is a plant arrangement,
18 combined cycle, drawing number N1-4.

19 A Yes.

20 MR. JOSEPH: And if, Mr. Fay, if the
21 Committee would allow me, I'm going to distribute
22 a blowup of that, because some of our eyes can't
23 actually see things that tiny very well at this
24 point.

25 HEARING OFFICER FAY: Okay, Mr. Joseph,

1 will you show it to Mr. Thompson, so he can --

2 MR. JOSEPH: Certainly.

3 HEARING OFFICER FAY: -- ratify this as
4 a true and correct copy.

5 MR. THOMPSON: My ability to decipher
6 these things is real close to zero.

7 HEARING OFFICER FAY: Well, the
8 applicant's ratification, then, as a group.

9 (Pause.)

10 MR. THOMPSON: If I may, Mr. Tateosian,
11 do you recognize this drawing?

12 MR. TATEOSIAN: Yes, I do.

13 MR. THOMPSON: And is this a larger
14 scale version of what you submitted in response to
15 one of the CURE data requests?

16 MR. TATEOSIAN: Yes.

17 MR. THOMPSON: Thank you.

18 HEARING OFFICER FAY: Thank you.

19 MR. JOSEPH: Thank you, Mr. Tateosian.

20 BY MR. JOSEPH:

21 Q I'd just like to walk through some of
22 the pieces that are described on this --

23 MR. THOMPSON: Mr. Joseph, did you want
24 this identified as an exhibit? I don't know if
25 the Committee -- if we're going to be talking

1 about this document, maybe it makes sense to have
2 it --

3 HEARING OFFICER FAY: Is it contained in
4 an exhibit that we have already?

5 MR. JOSEPH: It will be. This version
6 actually comes from the geotechnical study which
7 was already in large size. So I used that
8 existing large size plot. We can give it its own
9 exhibit number or not at the pleasure --

10 HEARING OFFICER FAY: Well, if it's not
11 already in let's give it its own exhibit number.
12 So that will be exhibit 14. And, Mr. Joseph, will
13 you identify it for the record?

14 MR. JOSEPH: Certainly. Exhibit 14 has
15 the drawing number at the bottom M1-4; and is
16 titled, plant arrangement, combined cycle.

17 MR. TATEOSIAN: That's correct.

18 BY MR. JOSEPH:

19 Q Now, can you just walk us through some
20 of these pieces. First, if you can identify on
21 this plot where the two units, units 1 and 2 that
22 are the subject of the City's application are
23 located?

24 A Yeah, as you look at the drawing there
25 the two units to the right, next to the

1 switchyard.

2 Q So these are the -- as it appears on the
3 page they are elongated in a vertical direction?

4 A Yes, right in the middle of the page.

5 Q Okay. Now, can you identify the
6 switchyard and transformer that are the subject of
7 the current application?

8 A Switchyard is to the right, south on the
9 drawing, of units 1 and 2.

10 Q Thank you. And now can you point us
11 towards the control room on the drawing?

12 A The control room is to the bottom or on
13 the drawing to the west of the switchyard.

14 Q And that's labeled number 39?

15 A Yes, that's correct.

16 Q Now, just for a moment, if you could
17 turn over to the text of the answer to one of the
18 CURE data requests. This is CURE data request set
19 1, question 1. Starting at the bottom of the
20 first page.

21 The question asks for, please describe
22 all provisions you plan to make for two additional
23 turbines at the site.

24 And then there are three bulleted items,
25 one at the bottom of the page and two at the top

1 of the next page, do you see that?

2 A Yes.

3 Q So the control room that could
4 accommodate additional control consoles in the
5 future is the control room that appears on exhibit
6 14?

7 A Yes.

8 Q Okay. Then the next bulleted item you
9 have is at the top of the page you say, we sized
10 the water tanks with spare capacity.

11 And so would you point out the water
12 tanks on this plot?

13 A Yeah, on this drawing it was basically
14 the demin water tank, the demineralized water
15 tank, which is number 40.

16 Q And that's on the far left?

17 A Yes.

18 Q One of the larger circles?

19 A Yes.

20 Q And then the next bulleted item says, we
21 are including T's in the piping for critical
22 systems to minimize the difficulty of future tie-
23 ins.

24 A Yes.

25 Q And then you give an example, T's in the

1 natural gas line as it proceeds south to units 1
2 and 2. Now, is it correct that that's a level of
3 detail which doesn't actually appear on the plot
4 plan that you have here?

5 A That's correct.

6 Q Can you explain what the thinking was in
7 having T's in the piping?

8 A Because the gas service from Semptra
9 comes in at the north end of the site, which is at
10 the far left side of the drawing.

11 Q Um-hum.

12 A And that gasline is routed -- it has to
13 get down to where units 1 and 2 are. And so it
14 passes down, if you will, the top edge of the site
15 which is to the east at the foot of the berms.
16 The line is routed down that way and it goes right
17 by this empty area that's going to be there after
18 units 1 and 2 are built.

19 And so it seemed the prudent thing to
20 put the T's in now; and if you want to do
21 something in the future, it's a lot easier to cut
22 a cap off and weld a piece of pipe on than it is
23 to go in and cut it out, cut out a piece of pipe
24 and weld a T in.

25 Q Thank you, I thought that was going to

1 be your explanation. Now, back to exhibit 14, on
2 the lower left side there's a section that says
3 interdiscipline review.

4 A Yes.

5 Q Can you explain what that section means?

6 A Power Engineers, before we issue drawing
7 to a client, we have an internal quality process
8 that involves an IDR, interdiscipline review. The
9 lead engineers all get together in a room; we go
10 through all the drawings, and we sign off on the
11 drawings. That's what those indicate.

12 Q So, Power Engineers makes sure that the
13 drawing reflected what was needed for the four-
14 unit configuration, is that right?

15 A Yeah. I will not represent -- our focus
16 was to design a two-unit plant. Now, you've
17 looked at the stuff we've given you and you see
18 that it actually started as a single unit 50
19 megawatt power plant.

20 You know, if we're going to do a four-by
21 plant, you know, I think we would go look at this
22 drawing again. This was an exercise; we had a
23 site larger than was needed for two units and it
24 was just an issue of how do you, you know, from a
25 prudence perspective, you know, not wanting to do

1 something that precluded -- you didn't want to
2 waste space.

3 Q Okay. One of the other attachments to
4 the same set of data requests is entitled,
5 ultimate combined cycle drawing number E1-4.

6 A Yeah.

7 Q And the title in the lower right
8 corner --

9 A Yes.

10 Q -- says, key one-line diagram ultimate
11 combined cycle.

12 A Yes.

13 Q Could you explain for us what this
14 diagram means?

15 A We had done a drawing that was for the
16 two units, a single-line drawing. And there were
17 only a couple of drawings that -- well, I'll say,
18 if you look at what the drawings that were done
19 for the two-unit plant, it's a large stack of
20 drawings.

21 We did this drawing just to illustrate
22 to people if you ended up doing a four-unit plant
23 from a single-line perspective, this is what it
24 would look like.

25 Q Is this the electric system for the

1 combined cycle plant?

2 A This shows how the electricity flows
3 from the generators to the switchyard. And it
4 shows how power gets to the aux busses. And it
5 shows the cross-tie over to the cogen plant.

6 Q Okay, thank you. Then if you turn to
7 the next attachment, the cover page for which says
8 substation general arrangement ultimate combined
9 cycle drawing E1-7-3.

10 A Correct.

11 Q And can you tell us what this drawing
12 is?

13 A This is basically a blowup of the
14 substation that you saw on drawing M1-4.

15 Q And that's the substation for the four-
16 unit project?

17 A That's correct.

18 Q Okay. So is it fair to conclude that
19 you have been careful in designing the details of
20 units 1 and 2, which we understand are done in
21 more detail, to be consistent with the potential
22 additional units at the site?

23 A We provide -- we try to do the design
24 that didn't, I'll say, not so much to insure
25 something can happen, but not to preclude

1 something from happening. And that's not, you
2 know, I don't know, as I sit here, I don't think
3 anybody knows, what units 3 and 4, if they ever
4 happen, would look like.

5 Q I understand that. I'm just asking for
6 the, you know, the work that you did, and the work
7 that you've done for this project. And for units
8 1 and 2 you were careful to design that so that
9 the door was open to units 3 and 4, is that a fair
10 statement?

11 A Yes.

12 Q Okay. You were in a number of meetings
13 where Power Engineers was asked to evaluate the
14 options for expansion beyond units 1 and 2, is
15 that right?

16 A The meetings were -- you're referring to
17 the meeting minutes. Those were sometimes
18 biweekly, sometimes monthly meetings where it was
19 for us to meet with the City and discuss the
20 project.

21 As the early meetings were focused on
22 what kind of plant did we want to build. And part
23 of those discussions were not, you know, don't go
24 plop two units in the middle of a site, because
25 you waste a lot of space.

1 And so, yeah, we talked about what's the
2 most efficient thing to do from a land use
3 perspective.

4 Q And Power Engineers was asked to
5 evaluate the options for expanding beyond units 1
6 and 2, is that right?

7 A We looked at several options, yes.

8 Q And the City asked you to do that?

9 A Yes.

10 Q And do you understand that the reason
11 the City asked you to do that was because the City
12 has contracts for power supply that are now being
13 relied on by the City would expire in some of the
14 future years, in 2008, 2010, 2011?

15 A That's correct.

16 Q Okay.

17 A Although I would add we also understood
18 it wasn't a foregone conclusion that that meant
19 building additional units.

20 Q I understand that. But you can foresee
21 the time when units 3 and 4 could be built?

22 A Depending on Riverside's needs, the
23 availability of power in the outside market, I
24 think a number of factors come into play.

25 Q And you can foresee that units 3 and 4

1 could be the outcome of that analysis?

2 A It's one of the options I would think
3 would be on the table.

4 Q Now, last week the City submitted a
5 revised plot plan where some tanks and compressors
6 were moved to reduce visual and noise impacts. Do
7 any of those recent changes preclude the
8 development of the project that is generally
9 described in drawing M1-4, exhibit 14?

10 A Those changes make it a little bit
11 harder, would make it a little more expensive in
12 the future.

13 Q They don't close the door on the four-
14 unit project, do they?

15 A No.

16 Q Okay, thank you.

17 MR. JOSEPH: That's all the questions I
18 have.

19 HEARING OFFICER FAY: Thank you. Any
20 redirect, Mr. Thompson?

21 MR. THOMPSON: A couple, if I may, Mr.
22 Fay.

23 REDIRECT EXAMINATION

24 BY MR. THOMPSON:

25 Q Were you told by the City to design any

1 buildout with specific characteristics in mind? I
2 guess I'm suggesting did they tell you it would be
3 a combined cycle or maybe a simple cycle, or was
4 there any indication of what kind of project it
5 would be?

6 A No.

7 Q Could it be an industrial facility of
8 some sort?

9 A Yes.

10 Q Okay.

11 MR. THOMPSON: That's all we had, thank
12 you.

13 HEARING OFFICER FAY: Any questions from
14 the Committee?

15 Mr. Tateosian, can you give us just an
16 engineer's estimate, maybe even an order of
17 magnitude of the difference in cost between
18 putting in the T's that you described in the
19 original installation versus the cost if those T's
20 had not been installed and going back and
21 retrofitting for any further additions later on?

22 MR. TATEOSIAN: I think the incremental
23 cost of doing it now is probably less than
24 \$10,000. I would think --

25 HEARING OFFICER FAY: What would be the

1 cost of doing it later, roughly?

2 MR. TATEOSIAN: It's probably at least a
3 \$60,000 job, plus taking an outage on the plant.

4 HEARING OFFICER FAY: Okay. And how
5 would you characterize, if you can, in layman's
6 terms, the level of design that is shown in the
7 record, not necessarily just on exhibit 14, but in
8 the record as it pertains to potential units 3 and
9 4?

10 MR. TATEOSIAN: You know, one of the
11 beauties of doing drawings electronically on a CAD
12 system, it's real easy to cut and paste. And, you
13 know, our charter was initially a single-unit
14 plant which then became a two-unit plant because
15 of market conditions. And it was -- we were just
16 trying to be good stewards with the land. And so
17 we cut and pasted two units next to the other two
18 to see if it all fit.

19 Does that answer your question?

20 HEARING OFFICER FAY: Would it be fair
21 to describe that as sort of a what-if exercise?

22 MR. TATEOSIAN: Yeah. Yes.

23 HEARING OFFICER FAY: Okay.

24 MR. TATEOSIAN: I mean we -- it was a
25 conceptual design. Those are the only drawings

1 that we did of a potential future plant. You
2 know, there were no PNIDs done. All the other
3 drawings that were done for the two-unit plant,
4 none of that work touched on -- none of that work
5 was done for what we've been discussing, you know.

6 And I'd also say this is really more a
7 case of not planning an expansion, but really more
8 of exploring scenarios. You can look at some of
9 the other things that are in the record and you'll
10 see that we looked at other scenarios, you know,
11 including a three-by-zero, for example, different
12 things we looked at.

13 And if you look at the drawing, itself,
14 it says, you know, there's a note on there that
15 indicates there's multiple options, nothing
16 definitive was selected.

17 HEARING OFFICER FAY: Where is that
18 referenced?

19 MR. TATEOSIAN: If you look down at note
20 3.

21 HEARING OFFICER FAY: All right, thank
22 you. Anything further, Mr. Thompson?

23 MR. THOMPSON: No, nothing further.

24 HEARING OFFICER FAY: Any recross?

25 MR. JOSEPH: No, thank you.

1 HEARING OFFICER FAY: Okay. All right,
2 that concludes our taking of evidence today based
3 on the notice that we put out. And what I'd like
4 to do now is talk to the parties about their
5 plans.

6 Mr. Thompson has indicated a few
7 changes. Anything else, Mr. Thompson, on changes
8 to your plans for the second set of hearings based
9 on the attachment A in the hearing order?

10 MR. THOMPSON: I don't think so, Mr.
11 Fay. Could I ask that we take a five- or ten-
12 minute break so I can -- we didn't realize that we
13 would be doing a prehearing conference --

14 HEARING OFFICER FAY: Okay, yeah.

15 MR. THOMPSON: -- and I'd like to get
16 the story straight before I --

17 HEARING OFFICER FAY: Sure. And I
18 apologize for that. It's just logical to use this
19 time together to try to fine tune what we're
20 doing.

21 And so why don't we come back at 20 to
22 12.

23 MR. THOMPSON: Great, thank you.

24 (Brief recess.)

25 HEARING OFFICER FAY: We will go back on

1 the record. Before we talk about scheduling and
2 plans for the next set of hearings, let us give --
3 Mr. Thompson, do you want to move your exhibits?

4 MR. THOMPSON: Yes, thank you. There
5 are two exhibits that I would like to move into
6 evidence, please. Exhibit number 4, letter from
7 Power Engineers to Glenn Robertson of Santa Ana
8 RWQCB dated June 25, 2004.

9 And exhibit 10, FAA application dated
10 July 2, 2004.

11 HEARING OFFICER FAY: All right. And to
12 the extent that we may not have already done so,
13 do you also want to move all the other portions of
14 the testimony and exhibits that were offered?

15 MR. THOMPSON: Do you want me to move
16 in -- I was just going to move the entire exhibit
17 at the end after everybody's testified to all the
18 portions. But, --

19 HEARING OFFICER FAY: Well, let's just
20 take care of it now, the testimony we've heard
21 thus far.

22 MR. THOMPSON: Could I ask the Committee
23 to move into evidence the testimony with the
24 declarations attached and the portions of each of
25 the exhibits that were sponsored by the witnesses

1 that appeared on behalf of the applicant today.

2 HEARING OFFICER FAY: Any objection?

3 Hearing none, so moved.

4 Ms. DeCarlo?

5 MS. DeCARLO: Thank you. If the
6 Committee could move in exhibit 13, as well as all
7 portions of exhibit 12, along with the
8 declarations that we've heard today.

9 HEARING OFFICER FAY: Any objection?

10 Hearing none, so moved.

11 MR. JOSEPH: Mr. Fay.

12 HEARING OFFICER FAY: Yes.

13 MR. JOSEPH: And we would like to move
14 into evidence exhibit 14.

15 HEARING OFFICER FAY: Oh, yes. Any
16 objection to receiving exhibit 14?

17 MR. THOMPSON: No.

18 HEARING OFFICER FAY: That's received,
19 as well. Thank you.

20 Okay, now in terms of the next set of
21 hearings, before we get into this discussion I
22 just want to make it clear that there are a
23 maximum of three days available. Regardless of
24 the parties desires for the time they wish to use,
25 that's what the Committee has available. And so

1 the time will be adjusted accordingly.

2 Mr. Thompson, what changes do you have,
3 if any, from your original prehearing conference
4 statement? You told us a couple of those, but if
5 you could --

6 MR. THOMPSON: I think the number one,
7 Karl Lany, in addition to air quality, will be
8 sponsoring public health.

9 Number two, Mr. John Baker, who was
10 identified by us as one of the project engineers,
11 was not included on the topic and witness schedule
12 of the prehearing conference order, and so we
13 would like to present him live on one of those
14 three days.

15 HEARING OFFICER FAY: On which topic?

16 MR. THOMPSON: He's a project engineer.
17 More specifically if CURE submits the arguments as
18 they appear in the motion, it would be the design
19 of facilities that will handle runoff water from
20 the site.

21 HEARING OFFICER FAY: Okay. I think
22 we've been just referring to that as hydrology or
23 water resources.

24 MR. THOMPSON: Exactly.

25 HEARING OFFICER FAY: Okay.

1 MR. THOMPSON: But there are numerous
2 other sections of the application that he will be
3 sponsoring.

4 HEARING OFFICER FAY: All right,
5 anything further?

6 MR. THOMPSON: I believe that's it.

7 HEARING OFFICER FAY: Okay. Staff, any
8 changes?

9 MS. DeCARLO: No changes, however we
10 won't know for certain who we will need to bring
11 until we see CURE's filed testimony on the 13th.
12 However, I believe most of the items that they've
13 already commented on the areas (inaudible) have
14 been identified in the hearing order.

15 I do have one request with regard to
16 hydrology. Our witness will no longer be
17 available as of September 1st, so if we could
18 possibly have hydrology testimony either on the
19 30th or August 31st, that would help staff out.

20 HEARING OFFICER FAY: Okay. And, CURE,
21 are you able yet to update your prehearing
22 conference statement at all. It was necessarily
23 broad, I realize, but --

24 MR. JOSEPH: We, too, will have a better
25 idea as to what we would be presenting when we see

1 our testimony.

2 (Laughter.)

3 MR. JOSEPH: In all seriousness, you
4 know, we got the air quality section earlier this
5 week and there were a lot of things done, there's
6 a lot of work done and we're just digesting it at
7 this point.

8 HEARING OFFICER FAY: Okay, so do you
9 have anything further to add?

10 MR. JOSEPH: No, but I think after a
11 week from tomorrow when we file our testimony, it
12 will certainly be possible at that point to figure
13 out exactly where the focus will be --

14 HEARING OFFICER FAY: Okay.

15 MR. JOSEPH: -- from our perspective.

16 HEARING OFFICER FAY: What I'll direct
17 then is that each of the parties give us a written
18 update with their testimony that they're filing --
19 well, parties not filing please give us a little
20 note if they have anything to add to what they've
21 said today on the 13th when the next round of
22 testimony is due.

23 MR. JOSEPH: Mr. Fay, in terms of timing
24 I think in fairness to the other parties they
25 won't be able to know how to respond to us until

1 they see it. And perhaps setting a day for that
2 filing a little bit after we file would be --

3 HEARING OFFICER FAY: That's a good
4 suggestion.

5 MR. JOSEPH: -- sensible.

6 HEARING OFFICER FAY: How much time, Mr.
7 Thompson, do you think you need to digest and
8 bring us up to date after the 13th?

9 MR. THOMPSON: Nothing more than two or
10 three business days after we receive it.

11 HEARING OFFICER FAY: Ms. DeCarlo?

12 MS. DeCARLO: Ideally we would prefer
13 five business days.

14 HEARING OFFICER FAY: Well, why don't we
15 say that by the 20th you'll both file a response,
16 not on the substance, but just, you know,
17 procedurally what you estimate your needs are.
18 Your plans in terms of rebuttal testimony, or your
19 plans in terms of cross-examination.

20 And, Mr. Joseph, at that time if you'd
21 give us a revised -- I mean at the time that you
22 file your testimony if you'd give us a revised
23 estimate of your, you know, direct and cross.

24 MR. JOSEPH: Yes. I mean the direct
25 will be what we file --

1 HEARING OFFICER FAY: Well, I mean if
2 you have a request that you want a certain amount
3 of time to summarize or whatever.

4 MR. JOSEPH: Sure.

5 HEARING OFFICER FAY: I mean you did
6 that in your prehearing conference statement.

7 MR. JOSEPH: Okay.

8 HEARING OFFICER FAY: We just want to
9 get a full expression of the parties, and that
10 will help us sort out the hearings.

11 And is there anything further from the
12 parties in terms of sequence of topics? Ms.
13 DeCarlo mentioned the unavailability of one of
14 their witnesses on September 1st. Is there
15 anything, any other comments based on the sequence
16 that's in attachment A?

17 We obviously won't be able to target the
18 exact time that a topic is heard, but we may be
19 able to get something out that's a little more
20 specific after we hear what the parties' plans are
21 for their cases.

22 MR. THOMPSON: The only thing, Mr. Fay,
23 that I would add would be I've been informed that
24 we have a witness that needs to come in and out in
25 a single day. And I will be able to address

1 that -- I'm not sure it matters which day, but it
2 has to come in and out on the same day. And so if
3 that is the case I will identify that witness and
4 the topic area in the filing on the 20th.

5 HEARING OFFICER FAY: Okay.

6 MR. THOMPSON: And we will accommodate
7 staff and CURE witnesses in the same manner.

8 HEARING OFFICER FAY: Okay. Yeah,
9 obviously you're going to serve anything you send
10 to me on the other parties so we all know what the
11 requests are.

12 Okay. Any further matters then before
13 we close?

14 Any public comment at all?

15 Okay, hearing no response, all right,
16 thank you, all. We are adjourned until the next
17 hearing date. Thank you.

18 (Whereupon, at 11:52 a.m., the hearing
19 was adjourned, to reconvene at 10:00
20 a.m., Monday, August 30, 2004, in
21 Riverside, California.)

22 --o0o--

CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in outcome of
said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 9th day of August, 2004.

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